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07/990,985 12/16/92 KLETSCHKA

34M2/1207

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H 3638	
EXAMINER	
MCANDREWS JR, R	
ART UNIT	PAPER NUMBER

3403
DATE MAILED:

12/07/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 8/29/94 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 4, 6, 7, 25, 27-29 & 40-78 are pending in the application.
Of the above, claims — are withdrawn from consideration.
2. ☒ Claims 1-3, 5, 8-24, 26 & 30-39 have been cancelled.
3. ☒ Claims 4 15 are allowed.
4. ☒ Claims 6, 7, 25, 27-29 & 40-78 are rejected.
5. ☐ Claims — are objected to.
6. ☐ Claims — are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on —. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on —, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed —, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. —; filed on —.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PART III

STATEMENT OF OBJECTIONS AND/OR REJECTIONS

A. Objection to the drawings:

1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, due to the importance of the diamagnets to the invention, each claimed arrangement of the diamagnets, including clear differentiation between the diamagnet and the other magnet means (ie. through different cross hatching), needs to be shown or the features cancelled from the claim. No new matter should be entered.
2. Upon submitting such corrected and additional figures the examiner requests that a brief statement corresponding each claim to its appropriate figure also be submitted.

B. Objection Under 35 U.S.C. § 112:

1. Claims 4, 6, 7, 25, 27-29 and 40-78 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following is a list of deficiencies that make the specified claims vague or unclear:

- ✓ a. Claims 6, 7, and 27-29 are unclear due to their dependency on a canceled claim.
- ✓ b. In claim 25, lines 13 and 14, the references to "radially" and "axially" are unclear

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without a properly stated reference axis. This deficiency is also evident in claims 27, 52, 54, 55, 57, 58, 60, 61, 63, 66, 67, 69, 70, 72, 73, 75 and 76.

✓ c. In claim 27, lines 3 and 4, it is unclear how something already claimed as radially stabilized (claim 25) is again radially stabilized.

NO
(claiming too broad not disclosed as being on both) actually misleading
[d.] In claim 40, lines 8-11, it is unclear how the apparatus would operate under the claimed possibility that the diamagnets and permanent magnets are fixed to the same element (housing or impeller). It is noted that the functional limitations of lines 11-16 cannot be referenced as excluding such a structural possibility. This deficiency is also evident in claims 52 and 64.

e. In claim 41, lines 1 and 2, as rejected in the first office action, the use of the phrase "substantially similar" is vague and indefinite. This deficiency is also evident in claims 44, 47, 50, 53, 56, 59, 62, 65, 68, 71, 74 and 77.

NO
possibly neg. of the possibility of claim 40 w/ mag levit
[f.] In claim 42, lines 5 and 6, as written, it is unclear whether it is the magnetic forces (claim 40) or the fluid forces (or both) that levitate the impeller. This deficiency is also evident in claims 45, 48, 51, 54, 57, 60, 63, 66, 69, 72, 75 and 78.

✓ g. In claim 43, lines 10-14, the redundancy of "each said permanent magnet...are oriented one of generally axially and radially" and "the plurality of permanent magnets are oriented generally axially and radially" makes the claim unclear. This deficiency is also evident in claims 46, 49, 52, 55, 61, 64, 67, 70, 73 and 76.

2. Claims 64-66 are rejected under 35 U.S.C. § 112, fourth paragraph, as being of

NO
All 16 possible perm have been claimed

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improper dependent form for failing to further limit the subject matter of a previous claim.

As understood, all of the valid permutations of this embodiment have already been claimed.

C. Allowable Subject Matter:

1. Claim 4 is allowable over the prior art of record.
2. Claims 25, 40, 43, 46, 49, 52, 55, 58, 61, 64, 67, 70, 73 and 76 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.
3. Claims 6, 7, 27, 28, 29, 41, 42, 44, 45, 47, 48, 50, 51, 53, 54, 56, 57, 59, 60, 62, 63, 65, 66, 68, 69, 71, 72, 74, 75, 77 and 78 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

D. Remarks:

1. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

2. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL

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EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to Roland McAndrews at telephone number (703) 308-0861 or via Fax (703) 305-3463.



Roland G. McAndrews, Jr.
Patent Examiner
Group 3403



RICHARD A. BERTSCH
SUPERVISORY PATENT EXAMINER
GROUP 340

RGM
12/2/94